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August 30, 2021

Via ECF

The Honorable Denise L. Cote,
United States District Judge,
Southern District of New York,
500 Pearl Street,
New York, NY 10007.

MEMO ENDORSED

Re: United States v. Timothy Wallace, 20-CR-52

Dear Judge Cote:

On behalf of the defendant, Timothy Wallace, I write to respectfully request an adjournment of Mr. Wallace's sentencing hearing, currently scheduled for September 16 at 11:00 AM, and related deadlines for the parties' sentencing submissions.

I have been in discussions with the Government about our objections to the PSR in the hopes of resolving these issues without requiring a hearing. I was informed by the Government on Friday that it agrees with only a subset of our objections. As to other objections, I recently learned that a *Fatico* hearing as to Mr. Wallace's co-defendant Derek Livingston is scheduled for September 17, 2021 at 9:00 AM, that Mr. Livingston's counsel has raised with the Government certain of the same concerns and objections that we have raised, and that Mr. Livingston's counsel may adduce evidence at the hearing that will be relevant to Mr. Wallace's sentencing. While it is possible that this questioning obviates the need for any questioning on behalf of Mr. Wallace, in light of the Government's position on certain of our objections, I would like an opportunity to question the witness whom I understand the Government intends to call at the September 17, 2021 *Fatico* hearing. If convenient for the Court, we can join the hearing on that date. I have conferred with counsel for Mr. Livingston and the Government, who have no objection to this request.

Because these matters are relevant to the sentencing submission we intend to make on behalf of Mr. Wallace, I also respectfully request an adjournment of the September 16, 2021 sentencing date, with Mr. Wallace's sentencing submission due within one week of the September 17, 2021 *Fatico* hearing (assuming we are permitted to join the hearing), *i.e.*, by September 24, 2021. Because I am scheduled to be traveling

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from September 23 until October 7, 2021, I would respectfully request an adjournment of the sentencing date for Mr. Wallace to October 8, 2021 or any date thereafter that is convenient for the Court.

Sincerely,

Nicole Friedlander

Nicole Friedlander

cc: AUSA Thomas Wright (by ECF)
Anna Sideris (by ECF)

The defendant has failed to identify any material factual disputes necessitating his participation in a Fatico hearing and there are none evident from the defendant's plea agreement. Accordingly, the request is denied.

Dated: August 31, 2021

Denise Cote
DENISE COTE
United States District Judge